

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00158-CKK

PUBLIC EMPLOYEES FOR ENVIRONMENTAL
 RESPONSIBILITY v. UNITED STATES DEPARTMENT OF
 HOMELAND SECURITY

Assigned to: Judge Colleen Kollar-Kotelly
 Cause: 05:552 Freedom of Information Act

Date Filed: 01/25/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
 Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**PUBLIC EMPLOYEES FOR
 ENVIRONMENTAL
 RESPONSIBILITY**

represented by **Paula Naomi Dinerstein**
 PUBLIC EMPLOYEES FOR
 ENVIRONMENTAL RESPONSIBILITY
 962 Wayne Avenue
 Suite 610
 Silver Spring, MD 20910
 (202) 265-7337
 Fax: (202) 265-4192
 Email: pdinerstein@peer.org
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
 HOMELAND SECURITY**

represented by **Marina Utgoff Braswell**
 U.S. ATTORNEY'S OFFICE FOR THE
 DISTRICT OF COLUMBIA
 501 3rd St., NW
 Washington, DC 20530
 (202) 252-2561
 Fax: (202) 252-2599
 Email: Marina.Braswell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/25/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF HOMELAND SECURITY (Filing fee \$ 400 receipt number 0090-5302038) filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Declaration Corporate Disclosure, # <u>3</u> Summons Attorney General, # <u>4</u> Summons DHS, # <u>5</u> Summons USAO)(Dinerstein, Paula) (Entered: 01/25/2018)
01/25/2018	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (md) (Entered: 01/25/2018)
01/25/2018		Case Assigned to Judge Colleen Kollar-Kotelly. (md) (Entered: 01/25/2018)
01/25/2018	<u>3</u>	SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF HOMELAND SECURITY, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent) (md) (Entered: 01/25/2018)
01/30/2018	<u>4</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 1/30/18. (DM) (Entered: 01/30/2018)
02/07/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 1/31/2018. Answer due for ALL FEDERAL DEFENDANTS by 3/2/2018. (Dinerstein, Paula)

		(Entered: 02/07/2018)
02/07/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF HOMELAND SECURITY served on 1/30/2018 (Dinerstein, Paula) (Entered: 02/07/2018)
02/07/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 1/31/2018. (Dinerstein, Paula) (Entered: 02/07/2018)
02/12/2018	<u>8</u>	NOTICE of Appearance by Marina Utgoff Braswell on behalf of UNITED STATES DEPARTMENT OF HOMELAND SECURITY (Braswell, Marina) (Entered: 02/12/2018)
03/02/2018	<u>9</u>	ANSWER to <u>1</u> Complaint by UNITED STATES DEPARTMENT OF HOMELAND SECURITY.(Braswell, Marina) Modified to add link on 3/5/2018 (znmw). (Entered: 03/02/2018)
03/20/2018	<u>10</u>	ORDER. The parties shall file the schedule not later than APRIL 19, 2018 . Signed by Judge Colleen Kollar-Kotelly on March 20, 2018. (lcckk1) (Entered: 03/20/2018)
03/20/2018		Set/Reset Deadlines: Joint Schedule due by 4/19/2018. (dot) (Entered: 03/20/2018)
04/19/2018	<u>11</u>	MEET AND CONFER STATEMENT. (Dinerstein, Paula) (Entered: 04/19/2018)
05/02/2018		MINUTE ORDER: The Court has received the parties' <u>11</u> Joint Meet and Confer Report, which indicates that Defendant's Federal Emergency Management Agency ("FEMA") and National Protection and Programs Directorate ("NPPD") have identified certain documents and expect to make an interim release by May 9, 2018, and to complete processing by June 15, 2018. Accordingly, the Court adopts the parties' proposal that they file a Joint Status Report by JUNE 25, 2018 , confirming the status of Defendant's productions, identifying how Plaintiff intends to proceed, and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on May 2, 2018. (lcckk1) (Entered: 05/02/2018)
05/02/2018		Set/Reset Deadlines: Joint Status Report due by 6/25/2018, confirming the status of Defendant's productions, identifying how Plaintiff intends to proceed, and proposing a briefing schedule, if necessary. (dot) (Entered: 05/02/2018)
06/25/2018	<u>12</u>	Joint MEET AND CONFER Statement by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) Modified on 7/5/2018 (zrdj). (Entered: 06/25/2018)
07/09/2018		MINUTE ORDER: The Court has received the parties' <u>12</u> Joint Meet and Confer Report, which indicates that FEMA and NPPD have made "final" productions to Plaintiff. It is not clear whether the parties are currently negotiating over the finality of those productions, as they represent that "[a]fter plaintiff's FOIA request has been fully processed and produced," further time will be necessary to enable Plaintiff to identify its proposed next steps in this litigation. In any event, the parties shall file a further Joint Status Report by JULY 31, 2018 , indicating how Plaintiff intends to proceed, and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on July 9, 2018. (lcckk1) (Entered: 07/09/2018)
07/09/2018		Set/Reset Deadlines: Joint Status Report due by 7/31/2018. (kt) (Entered: 07/09/2018)
07/31/2018	<u>13</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 07/31/2018)
08/07/2018		MINUTE ORDER: The Court has received the parties' <u>13</u> Joint Status Report, which indicates that Defendant has completed its processing of Plaintiff's FOIA request, that the parties continue to discuss certain exemptions asserted by FEMA, and that FEMA is preparing a <i>Vaughn</i> declaration for Plaintiff. The parties shall file a further Joint Status Report by SEPTEMBER 10, 2018 , indicating how the parties intend to proceed, and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on August 7, 2018. (lcckk1) (Entered: 08/07/2018)
08/07/2018		Set/Reset Deadlines: Joint Status Report due by 9/10/2018, indicating how the parties intend to proceed, and proposing a briefing schedule, if necessary. (dot) (Entered: 08/07/2018)

09/10/2018	<u>14</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 09/10/2018)
09/17/2018		MINUTE ORDER: The Court has received the parties' <u>14</u> Joint Status Report, which indicates that Defendant has prepared a <i>Vaughn</i> declaration for Plaintiff and that Plaintiff intends to review this declaration to determine whether to make any challenges. The parties shall file a further Joint Status Report by OCTOBER 15, 2018 , indicating whether the parties plan to settle or how they otherwise intend to proceed, and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on September 17, 2018. (lcckk1) (Entered: 09/17/2018)
09/17/2018		Set/Reset Deadlines: Joint Status Report due by 10/15/2018. (dot) (Entered: 09/19/2018)
10/15/2018	<u>15</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 10/15/2018)
10/16/2018		MINUTE ORDER: The Court has received the parties' <u>15</u> Joint Status Report, which indicates that Plaintiff continues to review the <i>Vaughn</i> index and that the parties intend to confer upon completion of that review. The parties shall file a further Joint Status Report by NOVEMBER 15, 2018 , indicating whether they plan to settle or how they otherwise intend to proceed, and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on October 16, 2018. (lcckk1) (Entered: 10/16/2018)
10/16/2018		Set/Reset Deadlines: Joint Status Report due by 11/15/2018, indicating whether they plan to settle or how they otherwise intend to proceed, and proposing a briefing schedule, if necessary. (dot) (Entered: 10/17/2018)
11/15/2018	<u>16</u>	Joint STATUS REPORT by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 11/15/2018)
11/28/2018		MINUTE ORDER: The Court has received the parties' <u>16</u> Joint Status Report, which indicates that Plaintiff has completed its review of the <i>Vaughn</i> index and that it disagrees with the claimed exemption. The parties shall file a further Joint Status Report by DECEMBER 14, 2018 , including their proposed briefing schedule, if briefing remains necessary. Signed by Judge Colleen Kollar-Kotelly on November 28, 2018. (lcckk1) (Entered: 11/28/2018)
11/29/2018		Set/Reset Deadlines: Joint Status Report due by 12/14/2018. (tb) (Entered: 11/29/2018)
12/12/2018	<u>17</u>	JOINT STATUS REPORT and PROPOSED BRIEFING SCHEDULE , , by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) Modified text on 12/13/2018 (ztd). (Entered: 12/12/2018)
12/14/2018		MINUTE ORDER: The Court has received the parties' <u>17</u> Joint Status Report and Proposd [sic] Briefing Schedule for Defendant's Motion for Summary Judgment. The Court shall adopt the parties' generous proposed schedule in the accompanying Scheduling and Procedures Order. Signed by Judge Colleen Kollar-Kotelly on December 14, 2018. (lcckk1) (Entered: 12/14/2018)
12/14/2018	<u>18</u>	SCHEDULING AND PROCEDURES ORDER. Signed by Judge Colleen Kollar-Kotelly on December 14, 2018. (lcckk1) (Entered: 12/14/2018)
12/14/2018		Set/Reset Deadlines: Plaintiff's Cross Motion due by 2/25/2019. Response to Cross Motion due by 3/25/2019. Reply to Cross Motion due by 4/24/2019. Defendant's Summary Judgment Motion due by 1/24/2019. Response to Motion for Summary Judgment due by 2/25/2019. Reply to Motion for Summary Judgment due by 3/25/2019. Vaughn Index due by 1/24/2019. (dot) (Entered: 12/17/2018)
01/18/2019	<u>19</u>	Consent MOTION to Stay (<i>Defendant's Consent Motion to Stay Proceedings in Light of Lapse of Appropriations</i>) by UNITED STATES DEPARTMENT OF HOMELAND SECURITY (Attachments: # <u>1</u> Text of Proposed Order)(Braswell, Marina) (Entered: 01/18/2019)
01/18/2019		MINUTE ORDER: The Court has received Defendant's <u>19</u> Consent Motion to Stay Proceedings in Light of Lapse of Appropriations. With Plaintiff's consent, and in an exercise of the Court's discretion, the Court shall GRANT Defendant's <u>19</u> Consent Motion. Except as provided below, the Court shall STAY this case, including the

		deadline for Defendant's Motion for Summary Judgment and any <i>Vaughn</i> declaration otherwise due by January 24, 2019. The parties shall file a notice within five business days of the restoration of the U.S. Department of Justice's funding and the resumption of its operations. Defendant has not indicated whether the agency personnel responsible for assisting with the preparation of the Motion for Summary Judgment and any <i>Vaughn</i> declaration have been deemed essential. To the extent that those agency personnel have been deemed essential, they should continue to assist in that preparation so that, upon restoration of funding, the Motion for Summary Judgment and any <i>Vaughn</i> declaration may be submitted more promptly. Signed by Judge Colleen Kollar-Kotelly on January 18, 2019. (lcckk1) (Entered: 01/18/2019)
02/01/2019	<u>20</u>	Joint STATUS REPORT and Revised Briefing Schedule by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY. (Dinerstein, Paula) (Entered: 02/01/2019)
02/01/2019		MINUTE ORDER: The Court has received the parties' <u>20</u> Joint Status Report and Extended Briefing Schedule. The parties identify the restoration of government funding. Accordingly, the Court hereby LIFTS the stay in this matter. In the accompanying Amended Scheduling and Procedures Order, the Court adopts a slightly adjusted version of the parties' proposed extended schedule for summary judgment briefing. Signed by Judge Colleen Kollar-Kotelly on February 1, 2019. (lcckk1) (Entered: 02/01/2019)
02/01/2019	<u>21</u>	AMENDED SCHEDULING AND PROCEDURES ORDER. Signed by Judge Colleen Kollar-Kotelly on February 1, 2019. (lcckk1) (Entered: 02/01/2019)
03/01/2019	<u>22</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HOMELAND SECURITY (Attachments: # <u>1</u> Bridges Declaration, # <u>2</u> Stainsby Declaration)(Braswell, Marina) (Entered: 03/01/2019)
03/05/2019	<u>23</u>	NOTICE (<i>Notice of Filing of Table of Authorities and Paginated Vaughn Index in Support of Defendant's Motion for Summary Judgment</i>) by UNITED STATES DEPARTMENT OF HOMELAND SECURITY re <u>22</u> MOTION for Summary Judgment (Attachments: # <u>1</u> (Table of Authorities), # <u>2</u> (Vaughn Index))(Braswell, Marina) (Entered: 03/05/2019)
03/07/2019		MINUTE ORDER: The Court has received electronic copies of Defendant's <u>22</u> Motion for Summary Judgment and <u>23</u> Notice of Filing of Table of Authorities and Paginated Vaughn Index in Support of Defendant's Motion for Summary Judgment. However, the Court also expects Defendant to submit courtesy hard copies of these filings and their accompanying exhibits, which the Court has not yet received. <i>See</i> Am. Scheduling and Procedures Order, ECF No. <u>21</u> , ¶ 8. Signed by Judge Colleen Kollar-Kotelly on March 7, 2019. (lcckk1) (Entered: 03/07/2019)
03/29/2019	<u>24</u>	Cross MOTION for Summary Judgment and opposition to <u>22</u> Defendant's Motion for Summary Judgment by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY (Attachments: # <u>1</u> Memorandum in Support memorandum of law, # <u>2</u> Declaration Dinerstein Declaration, # <u>3</u> Exhibit Exhibit A to Dinerstein Declaration, # <u>4</u> Statement of Facts Statement of Disputed Facts, # <u>5</u> Statement of Facts Statement of Undisputed Facts, # <u>6</u> Text of Proposed Order proposed order)(Dinerstein, Paula) (Entered: 03/29/2019)
03/29/2019	25	Memorandum in opposition to re <u>22</u> MOTION for Summary Judgment filed by PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY; (See docket entry no. <u>24</u> to view.) (ztd) (Entered: 04/01/2019)
04/01/2019		NOTICE OF ERROR re <u>24</u> Motion for Summary Judgment; emailed to pdinerstein@peer.org, cc'd 6 associated attorneys -- The PDF file you docketed contained errors: 1. Two-part docket entry, 2. Remember to file all parts of your document. The second part of this has been entered on the docket by the Court. (ztd,) (Entered: 04/01/2019)
04/03/2019		MINUTE ORDER: The Court has received an electronic copy of Plaintiff's <u>24</u> Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment. However, the Court also expects Plaintiff to submit a courtesy hard copy of this filing and its accompanying exhibits, which the Court has not yet received. <i>See</i> Am. Scheduling and Procedures Order, ECF No. <u>21</u> , ¶ 8. Signed by

		Judge Colleen Kollar-Kotelly on April 3, 2019. (lcckk1) (Entered: 04/03/2019)
04/29/2019	<u>26</u>	Unopposed MOTION for Extension of Time to File <i>Opposition/Reply Brief</i> by UNITED STATES DEPARTMENT OF HOMELAND SECURITY (Braswell, Marina) (Entered: 04/29/2019)
04/30/2019		MINUTE ORDER: The Court has received Defendant's <u>26</u> Unopposed Motion for Leave to File Motion for Extension of Time and Motion for Extension of Time of One Day. Defendant filed this motion on April 29, 2019, the date that its Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment and its Opposition to Plaintiff's Cross-Motion for Summary Judgment ("Reply/Opposition") were due. Defendant acknowledges the tardiness of its extension request. <i>See</i> Am. Scheduling and Procedures Order, ECF No. <u>21</u> , ¶ 2(a). Nevertheless, because of unexpected delays in the completion of Defendant's declaration, and with the consent of Plaintiff, the Court shall GRANT, <i>nunc pro tunc</i> , Defendant's <u>26</u> Unopposed Motion for Leave to File Motion for Extension of Time and Motion for Extension of Time of One Day, for good cause shown. Defendant shall have until and including APRIL 30, 2019 , to file its Reply/Opposition. Signed by Judge Colleen Kollar-Kotelly on April 30, 2019. (lcckk1) (Entered: 04/30/2019)
04/30/2019	<u>27</u>	Memorandum in opposition to re <u>24</u> Cross MOTION for Summary Judgment <i>and opposition to 22 Defendant's Motion for Summary Judgment</i> filed by UNITED STATES DEPARTMENT OF HOMELAND SECURITY. (Attachments: # <u>1</u> Statement of Facts, Response, # <u>2</u> Supplemental Stainsby Declaration)(Braswell, Marina) (Entered: 04/30/2019)
04/30/2019	<u>28</u>	REPLY to opposition to motion re <u>22</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HOMELAND SECURITY. (Attachments: # <u>1</u> Supplemental Stainsby Declaration)(Braswell, Marina) (Entered: 04/30/2019)
05/01/2019	<u>29</u>	NOTICE (<i>Notice of Filing of Table of Authorities in Support of Defendant's Memorandum of Points and Authorities in Opposition to Plaintiff's Cross-Motion for Summary Judgment and in Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgement</i> by UNITED STATES DEPARTMENT OF HOMELAND SECURITY re <u>28</u> Reply to opposition to Motion (Attachments: # <u>1</u> (Table of Authorities))(Braswell, Marina) (Entered: 05/01/2019)